



05 MAY 2003

Steven J. Grossman
HAYES, SOLOWAY, HENNESSEY & HAGE, P.C.
175 Canal Street
Manchester, New Hampshire 03101

In re Application of
LABRIE, Craig B *et al*
U.S. Application No.: 09/786,305
PCT No.: PCT/US99/13592
Int. Filing Date: 16 June 1999
Priority Date: 19 June 1998
Attorney Docket No.: TRM DV2539
For: APPARATUS FOR DEPLOYING AN
AIR BAG . . .

**DECISION ON THIRD
RENEWED PETITION
UNDER 37 CFR 1.47(a)**

This decision is in response to applicants' "Third Renewed Petition Under 37 CFR 1.47(a)" ("3d.Ren.Pet.") submitted 29 January 2003.

BACKGROUND

On 29 August 2002, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed for failing to meet all of the requirements.

On 29 January 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a three-month extension request and extension fee, and copies of several pages of an internet search for one of the nonsigning co-inventors.

DISCUSSION

In this third renewed petition, counsel clarifies that with respect to Mr. Daniels, applicants seeks acceptance for filing under 37 CFR 1.47 because Mr. Daniels "has refused to sign." 3d.Ren.Pet. at ¶ 2.

Counsel has detailed all of the facts concerning the alleged refusal by Mr. Daniels including stating that a copy of the specification, claims and drawings were sent to Mr. Daniels and that he was contacted by phone and asked if he would review the application papers but that he refused. *Id.* at # 2. Counsel asserts that he has direct knowledge of the alleged refusal by Mr. Daniels. Counsel claims that he again tried to have Mr. Daniels review the application papers by sending the complete application to his last known address. However, the mail was forwarded to another address and finally the mail was returned to counsel unopened. Counsel maintains that "Mr. Daniels had apparently moved again and elected not to provide a forwarding address." *Id.* at #3.

This is sufficient to show a refusal by Mr. Daniels. His last home address will be changed to reflect the updated information to:

2675 Greenstone Dr., #908
Auburn Hills, MI 48326

With regard to the inability to locate Mr. Kennedy, in the renewed petition counsel detailed the facts used to contact Mr. Kennedy including performing another internet search using other possible name combinations including Jack J. Kennedy (which is the name listed on the international publication ("WO 99/65738") for PCT/US99/13592. These statements and the documentary evidence provided are sufficient to prove that a diligent effort was made to locate Mr. Kennedy.

Therefore, item (2) of 37 CFR 1.47(a) is now satisfied.

However, applicants have not addressed the problem with Mr. Kennedy's first name outlined in the 29 August 2002 decision. The international publication lists the name of Mr. Kennedy as Jack J. Kennedy while the declaration submitted 08 November 2001 in the above-captioned national stage application lists Mr. Kennedy as John J. Kennedy. There is no record that a change in the name of the applicant/inventor pursuant to PCT Rule 92bis was made by the International Bureau.

Therefore, the declaration filed in the above-captioned application on 08 November 2001 is not in compliance with 37 CFR 1.497(a)(3) because it does not properly identify each inventor. Consequently, item (4) of 37 CFR 1.47(a) is also not satisfied.

Applicants must address this discrepancy by providing either a new declaration listing the correct name for Mr. Kennedy, a petition under 37 CFR 1.181 if the international publication is incorrect, or a petition under 37 CFR 1.182 if Mr. Kennedy legally changed his name. See MPEP § 605.04(c).

CONCLUSION

For the reason discussed above, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter

deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457